

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)
)
 v.)
)
ALEXIS RAMON HERRERA-FLORES)

CR. No.: 3:07cr00080-WHA

UNOPPOSED MOTION TO CONTINUE TRIAL

The Defendant, **ALEXIS RAMON HERRERA-FLORES**, by and through undersigned counsel, John Keller, and pursuant to 18 U.S.C. §§ (h)(8)(B)(i) and (h)(8)(B)(iv), respectfully moves this Court to continue the trial of this matter currently set for September 15, 2008. In support of this Motion, the Defendant offers the following:

1. Mr. Herrera-Flores' sanity at the time of his alleged offense is at issue in this case.
2. Counsel has recently been able to schedule an evaluation of Mr. Herrera-Flores addressing this specific issue, but the only times available for the evaluation are September 4 or 5, 2008.
3. Counsel recognizes that the evaluation report would therefore be provided to the Government the week before the currently scheduled trial date.
4. The Government, by and through Assistant United States Attorney, Nathan Stump, has requested additional time to review the expert's evaluation, potentially interview the expert, and consider having its own expert evaluate the defendant prior to trial.
5. Granting additional time to both parties to fully consider the sanity of the Defendant at the time of the alleged offense may help resolve the case without trial.
6. The Defendant requests that the new trial date be set no later than the November 17,

2008, trial term based on the approximately two years Mr. Herrera-Flores has already spent in prison in this case.

7. The Government, by and through Assistant United States Attorney, Nathan Stump, has no opposition to this requested continuance or the newly requested trial date.

6. Requests for a continuance are addressed to the sound discretion of the trial court. *United States v. Darby*, 744 F.2d 1508, 1521 (11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert. denied*, 471 U.S. 1100 (1985). Additionally, pursuant to 18 U.S.C. §§ (h)(8)(B)(i) and (h)(8)(B)(iv), it is in the interest of justice and within the discretion of the trial court to continue trial of this matter when a case necessitates granting the parties additional time to obtain and review expert reports and prepare for trial.

WHEREFORE, Defendant respectfully requests that this Motion To Continue Trial be granted.

Dated this 27th day of August, 2008.

Respectfully submitted,

s/ John Keller
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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Nathan Stump, Esq.
Assistant United States Attorney
131 Clayton Street
Montgomery, Alabama 36104

Respectfully submitted,

s/ John Keller
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